



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 4, 2005

**Call to
Order**

The regular meeting of the Sussex County Council was held Tuesday, October 4, 2005 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Finley B. Jones, Jr.	President
Lynn J. Rogers	Vice President
George B. Cole	Member
Dale R. Dukes	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
James D. Griffin	County Attorney

**M 543 05
Approve
Agenda**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the Agenda by deleting "Approval of Minutes" and the Grant Request from the Georgetown Public Library; and to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Corre-
spondence**

Mr. Griffin read the following correspondence:

**BUSINESS INDUSTRY EDUCATION ALLIANCE, DOVER,
DELAWARE.**

RE: Letter in appreciation of grant funding.

**GEORGETOWN ELEMENTARY SCHOOL, GEORGETOWN,
DELAWARE.**

RE: Letter in appreciation of grant funding.

**HISTORIC GEORGETOWN ASSOCIATION, GEORGETOWN,
DELAWARE.**

RE: Letter in appreciation of grant funding.

BOYS & GIRLS CLUBS OF DELAWARE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of grant funding.

THE WAY HOME PROGRAM, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grant funding.

**Corre-
spondence
(continued)**

MORGAN-MCCLURE MOTORSPORTS, NASCAR NEXTEL CUP TEAM CAR #4, ABINGDON, VIRGINIA.

RE: Letter in appreciation of the County's hospitality at the airport on race weekend.

**Town of
Dagsboro
Grant
Request**

Mr. Stickels presented a funding request from the Town of Dagsboro for a grant from the County's Revenue Sharing for Local Law Enforcement Program. (In the Fiscal Year 2006 Budget, the County Council allocated \$25,000 for each local police department to help with capital purchases.) The Town is requesting 20,939.64 to payoff the two (2) 2004 Crown Victoria police cars.

**M 544 05
Approve
Local Law
Enforce-
ment
Grant to
Town of
Dagsboro**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the Local Law Enforcement grant to the Town of Dagsboro, as presented.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Wastewater
Agreement**

Mr. Stickels presented a wastewater agreement for Canal Woods at Waterside R.P.C.

**M 545 05
Execute
Wastewater
Agreement/
Canal
Woods at
Waterside**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 372, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Circle J. Ventures, LLC, for wastewater facilities to be constructed in Canal Woods at Waterside R.P.C., located in the South Bethany Sanitary Sewer District.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Adminis-
trator's
Report**

Mr. Stickels read the following information in his Administrator's Report:

1. Beneficial Acceptance

The Engineering Department granted Beneficial Acceptance on September 21, 2005, for The Peninsula - Phase 1B-1, Agreement No. 351 - Lakeside. The project is located on the south end of Bay Farm Road in the Long Neck Sanitary Sewer District, consisting of 62 single-family lots. Included with this report is a fact sheet on the project.

Adminis-
trator's
Report
(continued)

2. **"StormReady" Declaration**

I am pleased to announce that Sussex County has been declared "StormReady" by the National Oceanic and Atmospheric Administration. Sussex County, along with Kent and New Castle counties and the City of Wilmington, received the designation Sunday, October 2, during the Coast Day celebrations at the University of Delaware campus in Lewes. The "StormReady" declaration means a community and its emergency planners have met a series of rigorous criteria and are better prepared to respond to severe weather. To be "StormReady," a community must, among other things:

- establish a 24-hour warning point and emergency operations center;
- have multiple ways to receive severe weather warnings and then be able to alert the public;
- develop a formal hazardous weather plan, which includes training weather spotters and holding emergency exercises.

Sussex County joins 940 other communities in the country with the "StormReady" designation, and our winning this award with Delaware's other two counties means Delaware is the first state in the continental United States to win the designation.

Congratulations to Sussex County Emergency Operations Center Director Joseph Thomas and his staff.

3. **Columbus Day Holiday**

Sussex County government offices will be closed on Monday, October 10, 2005, to allow employees to observe the Columbus Day holiday. County offices will reopen on Tuesday, October 11, 2005, at 8:30 a.m., and there will be a regularly scheduled Council meeting starting at 6:30 p.m.

Recommen-
dation to
Dispose of
Surplus
Equipment

Mr. Shade, Purchasing Officer, reported that the County has once again accumulated a large quantity of used electronic equipment including fax machines, copiers, telephones, calculators and other office type equipment. The items are no longer of any use to the County; some are in various states of disrepair while others have just been replaced. It is proposed that the

equipment be offered for sale to the public; any remaining items following the sale would then be offered for public auction at area auction houses.

M 546 05 **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to authorize the sale of surplus equipment.**

**Authorize
Sale of
Surplus
Equipment
M 546 05
(continued)**

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**

**Oak
Orchard
SSD
Contract/
Change
Order**

Mr. Izzo, County Engineer, reviewed a proposed Change Order to Contract C with George & Lynch for the Oak Orchard Sanitary Sewer District, Pump Stations 188 and 189. Mr. Izzo explained that one of the pump stations is the regional pump station and that the change order concerns work performed in the vicinity of that pump station. He further explained that there were tough construction conditions in Oak Orchard and utility location problems. This resulted in a delay in some of the gravity sewer project contracts; this forced George & Lynch to shut down construction of the pump station and then remobilize several months later and coordinate with the gravity sewer project contractors to complete the connection. In addition, the dewatering had to be rescheduled, which was a significant expense. The total cost of the proposed change order is \$22,040.00; there will be no additional change orders.

M 547 05 **A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the Engineering Consultants, CABA Associates, Inc., for Sussex County Project No. 99-19-C, Oak Orchard Sanitary Sewer District, Pump Stations 188 and 189, that Change Order No. 2 be approved in the amount of \$22,040.00, which increases the contract total \$1,016,159.20.**

**Approve
Change
Order/
Oak
Orchard
SSD
Contract**

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**

**Delta
Airport
Consultants/
Consultant
Agreement
Amendment**

Mr. Hickin, Project Engineer, reviewed a proposed amendment to the County's base contract with Delta Airport Consultants, Inc. for them to perform the 2006 Disadvantaged Business Enterprise Program Update. The cost for performing this service is \$7,257.00 and is grant eligible (90% Federal, State 5%, and County 5% (\$360.00)). Mr. Hickin explained that the DBE Program is required by law anytime the County anticipates more than \$250,000 in prime contracts to be awarded in any fiscal year. Next year, the County anticipates a total of \$2 - \$3 million. The scope of work entails 3-4 weeks of full-time work to research the demographics, research past business history, research DBEs in this area and surrounding areas,

and administrate a public comment period.

M 548 04
Approve
Consultant
Agreement
Amendment

A Motion was made by Mr. Rogers, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Amendment No. 16 to the Engineering Agreement between Sussex County and Delta Airport Consultants, Inc. to perform consulting services for the 2006 Disadvantaged Business Enterprise

M 548 05
Approve
Consultant
Agreement
Amendment
with Delta
Airport
Consultants
(continued)

Plan for the Sussex County Airport, which increases the original contract amount by \$7,257.00, pending approval from the County Finance Director, DelDOT, and/or the FAA.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

Old
Business
(C/U
No. 1598)

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 41,542 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1598) filed on behalf of Debbie S. Porter.

The Planning and Zoning Commission held a Public Hearing on this application on March 3, 2005 at which time they recommended that the application be denied.

The County Council held a Public Hearing on this application on April 5, 2005 at which time they deferred action to allow time for staff to develop proposed conditions.

A question arose regarding deed restrictions in the area. Mr. Lank and Mr. Griffin reported that they did not find any consistent scheme of deed restrictions for Stampers Subdivision and that the site owned by Debbie Porter was not subject to any deed restriction. Some of the other deed restrictions limited the use to residential only.

The Council discussed the eleven (11) proposed conditions that Mr. Lank, Director of Planning and Zoning, read into the record.

M 549 05
Adopt
Ordinance
No. 1794
(C/U
No. 1598)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1794 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY,

CONTAINING 41,542 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1598) filed on behalf of Debbie S. Porter, with the following conditions:

**M 549 05
Adopt
Ordinance
No. 1794
(C/U
No. 1598)
(continued)**

- 1. There shall be no displays of products or materials in the front yard setback.**
- 2. All materials shall be stored in a storage building, not to exceed 30’ x 60’. There shall be no outside storage of materials.**
- 3. One (1) non-lighted ground sign, not exceeding 32 square feet per side or facing, may be permitted.**
- 4. The Applicant shall obtain a commercial entrance permit and make such improvements as required by DelDOT.**
- 5. All fabrication of fencing, gates, or similar products shall be prepared in the storage building. There shall be no fabrication work performed outside.**
- 6. The storage building shall not exceed one-story and shall not exceed the height of the existing dwelling on the premise. The location of the building shall be subject to site plan review.**
- 7. Business hours shall be limited to 7:00 a.m. to 6:00 p.m., six (6) days per week with no Sunday hours.**
- 8. Any dumpster shall be located in a fenced enclosure inside of the existing stockade fencing.**
- 9. Security lighting shall be installed with downward illumination and screening so that it does not impact neighboring properties or motorists traveling along Route 9.**
- 10. All vehicles and utility trailers associated to the business shall be parked within the existing stockade fencing in a designated parking area.**
- 11. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.**

Motion Adopted: 4 Yea, 1 Nay.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Nay;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**

Introduction of Proposed Ordinance **Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO ADOPT CHAPTER 73 OF THE CODE OF SUSSEX COUNTY RELATING TO ADDRESSING AND STREET NAMING”. The Proposed Ordinance will be advertised for Public Hearing.**

Introduction of Proposed Ordinance **Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY WHICH DELETES THE EXISTING LANGUAGE AND INSERTS NEW LANGUAGE TO PERMIT THE SHARING OF REQUIRED PARKING SERVING MULTIPLE USES WITHIN THE SAME PROJECT AND UNDER THE SAME OWNERSHIP”. The Proposed Ordinance will be**

advertised for Public Hearing.

Introduction of Proposed Ordinance **Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO REDUCE THE SIZE OF AN OFF-STREET PARKING SPACE AND TO ALLOW A REDUCTION OF SIZE FOR COMPACT CARS UNDER CERTAIN CIRCUMSTANCES”. The Proposed Ordinance will be advertised for Public Hearing.**

Introduction of Proposed Ordinance **Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, SECTION 166, OF THE CODE OF SUSSEX COUNTY, TO REDUCE THE WIDTH OF PARKING LOT INTERIOR DRIVES FROM 25 FEET TO 24 FEET”. The Proposed Ordinance will be advertised for Public Hearing.**

Introduction of Proposed Ordinance **Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 SECTION 162 OF THE CODE OF SUSSEX COUNTY, TO DELETE THE PHRASE “3 PER FAMILY UNIT” AND SUBSTITUTE “2 PER DWELLING UNIT”. The Proposed Ordinance will be advertised for Public Hearing.**

Comments Regarding Proposed Ordinances **Mr. Cole expressed his displeasure with the presentation of the parking ordinances. He commented that there has not been any mention of the draft ordinances; that the content of the proposed ordinances do not benefit the public; that he wants documentation that states what the benefits are; and that he wants to know the motivation behind the drafting of the ordinances. Mr. Cole expressed his desire on several occasions to discuss the draft ordinances; however, he was advised that any discussion should take place during a public hearing. Mr. Cole did not agree with this response and he stated that many times, draft ordinances have been debated prior to introduction and a public hearing being held.**

M 550 05 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$1,000.00 (\$200.00 from each Councilmanic Account) to Delaware Technical & Community College for the Families in Crisis Annual Conference.**

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**

Introduction of Proposed Ordinance **Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 11,828 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1644) filed on behalf of Robert**

Sames. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Zoning Ordinance **Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.9458 ACRES, MORE OR LESS” (Change of Zone No. 1593) filed on behalf of Donald J. Warrington. The Proposed Ordinance will be advertised for Public Hearing.**

(continued)

Introduction of Proposed Zoning Ordinance **Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PLUMBING, HEATING, AND AIR CONDITIONING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (Conditional Use No. 1645) filed on behalf of Michael and Michele Mears. The Proposed Ordinance will be advertised for Public Hearing.**

Introduction of Proposed Zoning Ordinance **Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL BUSINESS SELLING ANTIQUES AND GIFTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.49 ACRES, MORE OR LESS” (Conditional Use No. 1646) filed on behalf of Carolyn A. DeSilva. The Proposed Ordinance will be advertised for Public Hearing.**

Introduction of Proposed Zoning Ordinance **Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WAREHOUSE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS” (Conditional Use No. 1647) filed on behalf of BDP Investments, LLC. The Proposed Ordinance will be advertised for Public Hearing.**

Introduction of Proposed Zoning Ordinance **Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RETAIL SALES OF BIRDS, SUPPLIES, AND RELATED ITEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.17 ACRES, MORE OR LESS” (Conditional Use No. 1648) filed on behalf of Terri L. Martin. The Proposed Ordinance will be advertised for Public Hearing.**

Additional Business **Daniel Kramer addressed Council and stated that once a Councilman introduces a Proposed Ordinance, all discussion on that proposal must cease until the Public Hearing is held.**

M 551 05 Adjourn **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 11:07 a.m. Motion Adopted by Voice Vote.**

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**

